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Superior Court of California
County of Los Angeles

DEC 28 2018

Sherri R. Carter, Executive Officer/Clerk
By: M. Soto, Deputy
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Attorneys for Plaintiff

NO FEE – GOV'T CODE §6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

ADELIA VALDIVIA aka ADELIA TRIGUEOS aka
MARIA VALDIVIA, an individual; JULIO CESAR
GALIANA, an individual; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO.: **18STCV09862**

**COMPLAINT FOR ABATEMENT
AND INJUNCTION**

[HEALTH & SAFETY CODE SECTION
11570, *ET SEQ.*; CIVIL CODE
SECTION 3479, *ET SEQ.*]

(Unlimited Action)

PLAINTIFF, THE PEOPLE OF THE STATE OF CALIFORNIA, alleges as follows:

I. INTRODUCTION

1. This action ("Action") is brought and prosecuted by Plaintiff, the People of the State of California (the "People"), for the purpose of abating, preventing and enjoining a gang and narcotics-related public nuisance that exists at an East Los Angeles duplex at 2016 and 2018 East 2nd Street, Los Angeles CA 90033 (the "Property"). The Action is brought pursuant to the Narcotics Abatement Law ("NAL"), California Health and Safety Code section 11570, *et seq.* and the Public Nuisance Law ("PNL"), Civil Code sections 3479-3480. The Property is within 480 feet of 2nd Street Elementary School, 569 feet of Hollenbeck Park, 610 feet of Breed Elementary School, and 772 feet of Lani Vest-Pocket Park.

2. The Property, located in the Los Angeles Police Department's ("LAPD") Hollenbeck Division, has been, and continues to be, a narcotics nuisance where the sale of phencyclidine ("PCP"), methamphetamine and other controlled substances takes place on a regular and continuous basis to drug users and buyers who go to the Property to purchase illegal drugs. Additionally, the Property has, and continues to have, a well-known reputation in the surrounding community and with LAPD as a major "hangout" location of the Cuatro Flats criminal street gang ("Cuatro Flats") where gang-related nuisance crimes occur and where rival gangs go to look for retribution as evidenced by a recent drive-by shooting at the Property. During that shooting last month, a woman was forced to duck down inside her vehicle parked in front of the Property to avoid being struck by gunfire. The Property is a refuge from police for Cuatro Flats gang members who live and loiter at the Property to use and sell drugs. Since 2017, law enforcement has made six arrests at or connected to the Property including arrests for narcotics sales by Cuatro Flats gang members.

3. Defendant Adelia Valdivia also known as Adelia Trigueos and Maria Valdivia ("Defendant Valdivia"), a 68-year-old woman, has owned the Property since at least September 2007. Defendant Valdivia's son, Julio Cesar Galiana ("Defendant Galiana"), age 45, has lived at the Property since at least 2007 and allows gang members and their associates to congregate at the Property and sell narcotics there. Defendant Galiana was at the Property during a narcotics arrest in 2017 in which a Cuatro Flats gang member ran into the Property to flee from law enforcement and attempted to flush narcotics down the toilet. Last month, a search warrant was served at the Property by LAPD where heroin, PCP, and methamphetamine was recovered from Defendant Galiana's room and Galiana was arrested for maintaining a location where drugs are being sold. Galiana's minor teenage sons live at the Property and one of the sons was present during the service of the search warrant along with a gang member previously arrested for drug sales connected to the Property.

4. Plaintiff is filing this lawsuit in an effort to protect public safety. The surrounding community cannot be expected to perpetually endure this ongoing dangerous activity. The nuisance abatement prosecution is intended to bring the unacceptable state of affairs at the

Property to a halt; to make the Property inhospitable to the gang members, drug dealers and buyers who now freely use it to deal narcotics; and to make the Property safe for people in the area.

II. THE PARTIES AND THE PROPERTY

A. Plaintiff

5. Plaintiff, the People, is the sovereign power of the State of California designated in California Health and Safety Code section 11571 and Code of Civil Procedure section 731 to be the complaining party in actions brought to abate, enjoin, and penalize public narcotics nuisances.

B. The Defendants

6. Defendant Valdivia is the owner of the Property and has been since at least September 2007. Plaintiff is informed and believes and thereon alleges that Defendant Valdivia either resides at the Property or at a residence she owns nearby.

7. Defendant Galiana has lived at the Property at least since 2007 residing in the downstairs unit with the address of 2018 East 2nd Street. Defendant Galiana has been present during every arrest at the Property and has been arrested twice at the Property for brandishing a fake firearm and maintaining a location where narcotics are being sold.

8. The true names and capacities of defendants sued herein as Does 1 through 50, inclusive, are unknown to Plaintiff, who therefore sues said defendants by such fictitious names. When the true names and capacities of said defendants have been ascertained, Plaintiff will seek leave of Court to amend this complaint and to insert in lieu of such fictitious names the true names and capacities of said fictitiously named defendants.

C. The Property

9. The Property is a two story duplex located at 2016 and 2018 East 2nd Street, Los Angeles, CA 90033.¹ It consists of two separate residences located on the same parcel

¹ The Property's legal description is "A part of Lot 6 in Block D of Moore and Kolleher's Subdivision of a part of Lot 5 in Block 60 of Hancock's Survey, in the City of Los Angeles, County of Los Angeles, State of California, as per map recorded in Book 5, page 568 of Miscellaneous Records in the office of the County Recorder of said County," with Assessor's Parcel Number 5183-011-025.

1 in a quiet residential neighborhood. The bottom residence is 2018 East 2nd Street, and the
2 top residence is 2016 East 2nd Street.

3 **III. THE NARCOTICS ABATEMENT LAW**

4 10. The abatement of a nuisance is a long-established and well-recognized exercise
5 of the state's police power. (*People v. Barbieri* (1917) 33 Cal.App. 770, 775; *People ex rel.*
6 *Hicks v. Sarong Gals* (1974) 42 Cal.App.3d 556, 563.) Since its enactment in 1972, the
7 principal purpose of the NAL (Health & Saf. Code, § 11570, *et seq.*) is the abatement of
8 buildings and places "used for the purpose of unlawfully selling, serving, storing, keeping,
9 manufacturing, or giving away any controlled substance, precursor, or analog specified in this
10 division" (Health & Saf. Code, § 11570).

11 11. The NAL provides that every building or place used for the purpose of unlawfully
12 selling, serving, storing, keeping, manufacturing, or giving away any controlled substance,
13 precursor, or analog *inter alia*, "is a nuisance which **shall** be enjoined, abated, and
14 prevented . . . whether it is a public or private nuisance." (Health & Saf. Code, § 11570
15 (emphasis added); *People ex rel Lungren v. Peron* (1997) 59 Cal.App.4th 1383, 1389; *Lew v.*
16 *Superior Court* (1993) 20 Cal.App.4th 866, 870-871.)

17 12. Health and Safety Code section 11571 authorizes a city attorney to bring an
18 action to abate, prevent and perpetually enjoin such nuisances. It provides in relevant part:
19 "Whenever there is reason to believe that a nuisance as described in Section 11570 is kept,
20 maintained, or exists in any county, the district attorney of the county, or the city attorney of
21 any incorporated city or of any city and county, in the name of the people, may . . . maintain
22 an action to abate and prevent the nuisance and perpetually to enjoin the person conducting
23 or maintaining it, and the owner, lessee, or agent of the building or place in or upon which the
24 nuisance exists from directly or indirectly maintaining or permitting the nuisance."

25 13. Health and Safety Code section 11573(a) provides that: "If the existence of the
26 nuisance is shown in the action to the satisfaction of the court or judge, either by verified
27 complaint or affidavit, the court or judge **shall** allow a temporary restraining order or injunction
28 to abate and prevent the continuance or recurrence of the nuisance." (Emphasis added.) In

1 addition, Health and Safety Code section 11581 provides, as an additional remedy, for the
2 removal and sale of all fixtures and movable property on the premises used in aiding or
3 abetting the nuisance and for the closure of the building for up to one year.

4 IV. THE PUBLIC NUISANCE LAW

5 14. "Abatement of nuisances is a long established and well recognized exercise of
6 the state's police power." (*People ex rel. Hicks v. Sarong Gals* (1974) 42 Cal.App.3d 556, 563;
7 *People ex rel. Bradford v. Barbieri* (1917) 33 Cal.App. 770, 775-778.) Civil Code section 3479
8 defines a nuisance as "[a]nything which is injurious to health, including, but not limited to, the
9 illegal sale of controlled substances, or is indecent or offensive to the senses, or an
10 obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life
11 or property" (*Bakersfield v. Miller* (1966) 64 Cal.2d 93, 99 ["The Legislature has defined
12 in general terms the word 'nuisance' in Civil Code section 3479"].)

13 15. Civil Code section 3480 defines a public nuisance as "one which affects at the
14 same time an entire community or neighborhood, or any considerable number of persons,
15 although the extent of the annoyance or damage inflicted upon individuals may be unequal."

16 16. In particular, drug dealing, loitering, consumption of alcohol and illegal drugs,
17 and boisterous conduct which creates a hooligan-like "atmosphere" constitutes a public
18 nuisance. (*People ex rel. Gallo v. Acuna* (1997) 14 Cal.4th 1090, 1120.)

19 17. Under Civil Code section 3491, "The remedies against a public nuisance are:
20 1. Indictment or information; 2. A civil action; or, 3. Abatement." "An abatement of a nuisance
21 is accomplished by a court of equity by means of an injunction proper and suitable to the facts
22 of each case." (*Sullivan v. Royer* (1887) 72 Cal. 248, 249.)

23 18. Code of Civil Procedure section 731 authorizes a city attorney to bring an action
24 to enjoin or abate a public nuisance. It provides, in pertinent part, "A civil action may be
25 brought in the name of the people of the State of California to abate a public nuisance . . . by
26 the city attorney of any town or city in which the nuisance exists." (*Ibid.*)

1 **V. FIRST CAUSE OF ACTION FOR NARCOTICS ABATEMENT**

2 **[Health and Safety Code Section 11570, *et seq.* --**

3 **Against Defendants and DOES 1 through 50]**

4 19. Plaintiff hereby incorporates by reference paragraphs 1 through 18 of this
5 Complaint and makes them part of the First Cause of Action, as if fully set forth herein.

6 20. Since at least 2017, the Property has been, and is *currently* being used for the
7 purposes of unlawfully selling, serving, storing, keeping, manufacturing or giving away
8 controlled substances in violation of Health and Safety Code section 11570, *et seq.* The
9 general reputation of the Property in the community and amongst law enforcement is that it is
10 a location where the sale of methamphetamine and PCP and other controlled substances
11 takes place on an open and regular basis by residents, gang members and/or others.

12 21. Defendants, and Does 1 through 50, are responsible for conducting,
13 maintaining, and/or directly or indirectly permitting the nuisance as alleged herein. Plaintiff
14 has no plain, speedy and adequate remedy at law, and unless Defendants, and Does 1
15 through 50, are restrained and enjoined by order of this Court, they will continue to use,
16 occupy and maintain, and/or to aid, abet or permit, directly or indirectly, the use, occupation
17 and maintenance of the Property, together with the fixtures and appurtenances located
18 therein, for the nuisance complained of herein, to the great and irreparable damage of the
19 public and in violation of California law.

20 **VI. SECOND CAUSE OF ACTION FOR PUBLIC NUISANCE**

21 **[Civil Code Section 3479, *et seq.* --**

22 **Against Defendants and DOES 1 through 50]**

23 22. Plaintiff incorporates by reference Paragraphs 1 through 21 of this Complaint
24 and makes them part of this Second Cause of Action as though fully set forth herein.

25 23. Since at least 2015 and continuing through the present, Defendants and DOES
26 1 through 50 have owned, operated, managed, and used, and/or directly or indirectly
27 permitted to be occupied and used, the Property in such a manner as to constitute a public
28 nuisance in accordance with Civil Code sections 3479 and 3480. The public nuisance, as

described herein, is injurious to health, indecent or offensive to the senses, and/or an obstruction to the free use of property, so as to substantially and unreasonably interfere with the comfortable enjoyment of life or property by those persons living on the Property and in the surrounding community. The public nuisance consists of, but is not limited to, narcotics activity on the Property; the threatening and disorderly presence of gang members at the Property; shootings at the Property; and the tendency of the Property to attract gunfire from rival gangs because of the presence of gang members at the Property.

24. Defendants, and DOES 1 through 50, in owning, conducting, maintaining, and/or permitting the use of the Property, directly or indirectly, as a public nuisance and failing to take reasonable steps to prevent or abate the ongoing nuisance, and as a result of this failure and mismanagement of the Property, have caused and/or contributed to a serious threat to the general health, safety, and welfare of persons in the surrounding community.

25. Unless Defendants, and DOES 1 through 50, are restrained and enjoined by order of this Court, they will continue to use, occupy, and maintain, and to aid, abet, or permit, directly or indirectly, the use, occupation, and maintenance of the Property, together with the fixtures and appurtenances located therein, for the purpose complained of herein, to the great and irreparable damage of Plaintiff and in violation of California law.

PRAYER

WHEREFORE, PLAINTIFF PRAYS THAT THIS COURT ORDER, ADJUDGE AND DECREE AS FOLLOWS:

AS TO THE FIRST CAUSE OF ACTION

1. That Defendants, Does 1 through 50, and the Property, be declared in violation of Health and Safety Code section 11570, *et seq.*

2. That the Property, together with the fixtures and moveable property therein and thereon, be found to constitute a public nuisance and be permanently abated as such in accordance with Section 11581 of the California Health and Safety Code.

3. That the Court grant a preliminary injunction, permanent injunction and order of abatement in accordance with Section 11570, *et. seq.*, of the California Health and Safety

1 Code, enjoining and restraining each Defendant and their agents, officers, employees and
2 anyone acting on their behalf, from unlawfully selling, serving, storing, keeping,
3 manufacturing, or giving away controlled substances on the Property, and/or directly or
4 indirectly maintaining or permitting such nuisance activity.

5 4. That the Court order physical and managerial improvements to the Property in
6 accordance with California Health and Safety Code section 11573.5, and such orders as are
7 otherwise appropriate, to remedy the nuisance on the Property and enhance the abatement
8 process, including but not limited to, a prohibition on Defendant Galiana's presence at or
9 within 1000 feet of the Property at any time, for any reason; prohibiting known narcotics users
10 and dealers from accessing the Property; and strict limitations on who else may be present on
11 the Property at all times.

12 5. That as part of the Judgment, an Order of Abatement be issued, and that the
13 Property be closed for a period of one year, not to be used for any purpose, and be under the
14 control and custody of this Court for said period of time; or, in the alternative, if the Court
15 deems such closure to be unduly harmful to the community, that Defendants, and Does 1
16 through 50, pay an amount of damages equal to the fair market rental value of the Property
17 for one year to the City or County in whose jurisdiction the nuisance is located in accordance
18 with Health and Safety Code section 11581 subdivision (c)(1).

19 6. That Defendants, and Does 1 through 50, each be assessed a civil penalty in an
20 amount not to exceed twenty-five thousand dollars (\$25,000.00).

21 7. That all fixtures and moveable property used in conducting, maintaining, aiding or
22 abetting the nuisance at the Property be removed by the LAPD and sold in the manner
23 provided for the sale of chattels under execution. Said fixtures and property shall be
24 inventoried and a list prepared and filed with this Court.

25 8. That there shall be excepted from said sale, such property to which title is
26 established in some third party not a defendant, nor agent, officer, employee or servant of any
27 defendant in this proceeding.
28

1 9. That the proceeds from said sale be deposited with this Court for payment of the
2 fees and costs of sale. Such costs may occur in closing said property and keeping it closed,
3 removal of said property, and Plaintiff's costs in the Action, including attorneys' fees, and such
4 other costs as the Court shall deem proper.

5 10. That if the proceeds of the sale do not fully discharge all such costs, fees and
6 allowances, the Property shall also be sold under execution issued upon the order of the
7 Court or judge and the proceeds of such sale shall be applied in a like manner. That any
8 excess monies remaining after payment of approved costs shall be delivered to the owner of
9 said property. Ownership shall be established to the satisfaction of this Court.

10 11. That Defendants, Does 1 through 50, and any agents, trustees, officers,
11 employees and anyone acting on their behalf, and their heirs and assignees, be perpetually
12 enjoined from transferring, conveying, or encumbering any portion of the Property, for
13 consideration or otherwise, without first obtaining the Court's prior approval.

14 12. That Defendants, and Does 1 through 50, be ordered to immediately notify any
15 transferees, purchasers, commercial lessees, or other successors in interest to the subject
16 Property of the existence and application of any temporary restraining order, preliminary
17 injunction, or permanent injunction to all prospective transferees, purchasers, commercial
18 lessees, or other successors in interest, *before* entering into any agreement to sell, lease or
19 transfer the Property, for consideration or otherwise, all or any portion of the Property that is
20 the subject of this Action.

21 13. That Defendants, and Does 1 through 50, be ordered to immediately give a
22 complete, legible copy of any temporary restraining order and preliminary and permanent
23 injunctions to all prospective transferees, purchasers, lessees, or other successors in interest
24 to the Property.

25 14. That Defendants, and Does 1 through 50, be ordered to immediately request and
26 procure signatures from all prospective transferees, purchasers, lessees, or other successors
27 in interest to the subject Property, which acknowledges his/her respective receipt of a
28 complete, legible copy of any temporary restraining order, preliminary and permanent

1 injunction, at least 30 days prior to the close of escrow, and deliver a copy of such
2 acknowledgment to the Los Angeles City Attorney's Office, c/o Deputy City Attorney Jennifer
3 Varela or her designee.

4 15. That Plaintiff recover the costs of this Action, including law enforcement
5 investigative costs and any fees, including attorneys' fees, authorized by law, not to exceed
6 \$1,000,000.00, from Defendants and Does 1 through 50.

7 AS TO THE SECOND CAUSE OF ACTION

8 1. That the Property, together with the fixtures and moveable property therein and
9 thereon, be declared a public nuisance and be permanently abated as such in accordance
10 with Civil Code section 3491.

11 2. That each Defendant and their agents, officers, employees and anyone acting
12 on their behalf, and their heirs and assignees, be preliminarily and perpetually enjoined from
13 operating, conducting, using, occupying, or in any way permitting the use of the Property as a
14 public nuisance. Such orders should include, but not be limited to physical and managerial
15 improvements to the Property, stay away orders for persons who have contributed to the
16 nuisance at the Property, including Defendant Galiana, and such other orders as are
17 appropriate to remedy the nuisance on the Property and enhance the abatement process.

18 3. Such costs as may occur in abating said nuisance at the Property and such
19 other costs as the Court shall deem just and proper.

20 4. That Plaintiff be granted such other and further relief as the Court deems just
21 and proper, including closure and/or demolition of the Property.

22 AS TO ALL CAUSES OF ACTION


23 1. That Plaintiff recover the amount of the filing fees and the amount of the fee for
24 the service of process or notices which would have been paid but for Government Code
25 section 6103.5, designating it as such. The fees may, at the Court's discretion, include the
26 amount of the fees for certifying and preparing transcripts.

1 2. That Plaintiff be granted such other and further relief as the Court deems just
2 and proper.

3
4 DATED: December 28, 2018 Respectfully submitted,

5 MICHAEL N. FEUER, City Attorney
6 JONATHAN CRISTALL, Supervising Assist. City Attorney

7
8 By:


JENNIFER VARELA, Deputy City Attorney
Attorneys for Plaintiff, THE PEOPLE OF THE STATE
OF CALIFORNIA